

Message Text

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ACTION SCS-03

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC 6612

INFO AMCONSUL RIO DE JANEIRO

AMCONSUL SAO PAULO

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E.O. 11652: N/A

TAGS: CASC (DAVIS, JOHN W.)

SUBJ: BRAZILIAN GOVERNMENT'S HANDLING OF DAVIS CASE

REF: BRASILIA 5859

1. ON JULY 3, IMMEDIATELY AFTER REPORT OF SHOOTING OF THREE DAVIS FAMILY MEMBERS ON THEIR LANDHOLDING IN PARAGOMINAS, DCM TELEPHONED CARDOSO, CHIEF OF DIVISION OF NORTH AND CENTRAL AMERICA OF ITAMARITY, TO ASK THAT JUSTICE MINISTRY BE NOTIFIED AND REQUESTED TO PROVIDE PROTECTION (JUSTICE MINISTRY HAS JURISDICTION OVER FEDERAL POLICE; US CONSUL IN BELEM HAD ALREADY NOTIFIED PARA STATE POLICE). TO OUR SURPRISE, CARDOSO CALLED BACK AFTER AN HOUR (DURING WHICH TIME HE HAD LIKELY CONSULTED WITH OTHERS IN ITAMARATY) TO SAY THAT MATTER SHOULD BE HANDLED THROUGH US CONSUL IN BELEM WITH BELEM OFFICE OF FEDERAL POLICE. WHEN DCM ASKED WHETHER THIS WAS NOT A PROPER MATTER FOR EMBASSY TO TAKE UP IN BRASILIA WITH FOREIGN MINISTRY, CARDOSO SAID HE DOUBTED THAT IT WAS.

2. AS IT TURNED OUT, REFUSAL OF ITAMARATY TO RELAY OUR REQUEST MADE LITTLE DIFFERENCE. EMBASSY HAD ALREADY INITIATED STEPS TO GET IN TOUCH WITH JUSTICE MINISTRY DIRECTLY, WHICH WERE SUCCESSFUL DURING AFTERNOON AND CULMINATED IN AMBASSADOR'S EVENING
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TELEPHONE CONVERSATION WITH JUSTICE MINISTER FALCAO.

3. EMBASSY REMAINS INTERESTED, HOWEVER, IN ASCERTAINING PROPRIETY OF CARDOSO'S RESPONSE. SUBJECT CAME UP JULY 5 WHEN DCM DELIVERED EMBASSY'S NOTE ON DAVIS CASE TO CARDOSO. COUNSELOR DOS SANTOS OF ITAMARATY'S JURIDICAL DIVISION WAS ALSO ON HAND. STRESSING THAT POSITION WAS "TENTATIVE" ONLY AND THAT IT REQUIRED FURTHER STUDY IN ITAMARATY, CARDOSO SAID PROTECTION OF FOREIGN NATIONALS IS A FUNCTION OF THE LOCAL CONSUL WHO DEALS WITH THE POLICE AND OTHER AUTHORITIES IN THE STATE. IT IS A JUDICIAL MATTER, HE ADDED, BUT IT CAN BE ONE WHICH DOES NOT FALL WITHIN THE JURISDICTION OF THE FEDERAL POLICE OR THE FEDERAL JUDICIARY.

4. AT THIS POINT, DOS SANTOS HASTENED TO ADD THAT "INFORMALLY" ITAMARATY IS READY TO HELP AND TO ENLIST HELP OF MINISTRY OF JUSTICE. THIS IS BECAUSE OF THE SERIOUSNESS OF THE SITUATION AND THE DIFFICULTIES THE PARA STATE POLICE HAVE IN MAINTAINING ORDER THROUGHOUT THE ENTIRE STATE. HE CITED AS EVIDENCE OF THIS "INFORMAL" COOPERATIVENESS THE ACTION THE MINISTRY TOOK ON OUR MARCH 19 NOTE (REFERRAL TO JUSTICE MINISTRY) AND ITS READINESS TO ACT ON OUR PRESENT NOTE. "FORMALLY," HOWEVER, ITAMARATY DOUBTS THAT THIS IS A MATTER WITHIN THE JURISDICTION OF THE EMBASSY, HE SAID.

5. REJECTING "FORMAL VS INFORMAL" DISTINCTION, DCM SAID ESSENTIAL AND PRACTICAL QUESTION IS WHETHER IT IS ITAMARATY'S POSITION THAT IN EMERGENCY INVOLVING A US CITIZEN THE EMBASSY SHOULD NOT SEEK ASSISTANCE OF FEDERAL SECURITY FORCES THROUGH FOREIGN MINISTRY. HE NOTED THAT RESPONSE FURNISHED HIM ORALLY JULY 3 BY CARDOSO DEFINITELY INDICATED ITAMARATY FEELS WE SHOULD NOT, AND SAID WE WOULD HAVE SOME QUESTIONS ABOUT SUCH A CONTENTION. CARDOSO SAID ITAMARATY WOULD STUDY MATTER FURTHER AND LET US KNOW.

6. AS PREPARATION FOR FURTHER DISCUSSIONS ON THIS MATTER WITH ITAMARATY, EMBASSY WOULD APPRECIATE LIMITED OFFICIAL USE

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DEPARTMENT'S VIEWS ON LEGAL ASPECTS OF THEIR POSITION.
CRIMMINS

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